



Thomas P. Carney
302.567.2727
tcarney@tcarneylaw.com

June 2, 2023

VIA: E-MAIL AND HAND DELIVERY

Members of the Town of Townsend's Zoning Board of Adjustment
Attn: Ms. Antonina Tantillo, Town Manager
141 Main Street
Townsend, DE 19734

Re: Variance Request for the Development of 100 Karins Boulevard, Townsend, Delaware 19734, Tax Parcel No. 2500800002 (the "Property")

Dear Members of the Board:

I represent Long Real Estate Investments LLC ("Long Investments" or "Applicant") in connection with its purchase of the Property from the Lifehouse Church, Inc. (the "Seller"). The Applicant intends to construct a state-of-the-art, self-storage facility on the Property (the "Project"), which will be the first self-storage facility in the Town of Townsend. In connection with the Project, the Applicant hereby submits a completed variance application of even date herewith, along with this submission which addresses the inquiries set forth in Attachment B of the variance application (the "Application"). In addition, this submission also discusses the background of the Property and why the Project is appropriate for this Property as currently zoned. The Applicant will appear before the Town of Townsend's Zoning Board of Adjustment (the "Board") to present the Application at the scheduled date and time of the meeting. The Applicant is also prepared to submit any additional information requested by the Board.

BACKGROUND AND BASIS FOR THE VARIANCE REQUEST

As mentioned above, the Applicant is under contract with the Seller and is currently undergoing due diligence for the purchase of the Property and development of the Project. In addition to beginning the entitlement process at the state level, the Applicant has facilitated pre-development discussions with the Town of Townsend (the "Town") for the Town's administrative review of the Project. The Property is situated within a Commercial District (C) pursuant to the Town's Official Zoning Map. During our preliminary discussions of the Project with the Town, it was discovered that the Town's Zoning Code (the "Code") does not expressly provide self-storage facilities as permitted uses under a commercial classification. Upon further review, it was discovered that the Code does not actually permit self-storage under any of the Town's zoning classifications. Because self-storage is not expressly set forth as a permitted use in Section 24.12.270(B), nor any other sections of the Code, the Town has requested that the Applicant submit this application to the Board.

In addition to the merits of the Application, we believe that this Project should be appropriately approved by the Board because it is of the character of development that is intended to be included in a commercial zoning districts. Self-storage is a commercial use in nature as it is a direct-to-consumer service, as opposed to business-to-business service (i.e. manufacturing and production), which is traditionally common within industrial zoning classifications. A comparison of other zoning codes throughout the State and local area further support that a commercial zoning designation is the appropriate classification for a self-storage facility.¹ The fact that self-storage facilities are not expressly designated as a permitted use anywhere else in the Code is evidence that there was an oversight at the time of codification. If the Town did not wish to have self-storage facilities for its resident or if the Town had intended self-storage was intended to be in another zoning classification, the Code would expressly prohibited self-storage in the Commercial District and/or it would be listed as a permitted use in another zoning classification of the Code. As such, the Project is appropriate for the Property as zoned, notwithstanding the Code's failure to specifically enumerate self-storage, and this Application is an administrative formality.

DISCUSSION OF ATTACHMENT B OF THE APPLICATION

1. "That Special conditions or exceptional practical difficulties exist which are peculiar to the land, structure or building involved and which are not applicable to other land, structures or buildings in the same district."
 - a. An exceptional practical difficulty exists because the Code does not set forth a self-storage facility in the permitted uses of the Town's Commercial zoning classification. Since this is the first of its kind and there are no other self-storage facilities in the Town currently, this would not have impacted any other properties in this zoning classification prior to this Application.
2. "The literal interpretation of the provisions of this Ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Ordinances."
 - a. As previously discussed, self-storage facilities are an appropriately permitted use within commercial zoning classifications. Since the Code does not expressly set forth self-storage as a permitted use, the literal application of the Code would prevent the Applicant from utilizing the Property which would commonly be afforded to the owner of a commercially zoned property in another jurisdiction.
3. "The special conditions and circumstanced do not result from the actions of the Applicant."
 - a. The Applicant had no involvement in the enactment of the current provisions of the Code, and the Applicant has not taken any other actions which have led to the submission of this Application and the requested variance.

¹ See attached Exhibit A.

4. “That granting of the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structure or buildings in the same zoning classification.”
 - a. The granting of this variance request and permitting the Applicant to construct the Project will not grant any special rights or privileges that wouldn’t be afforded to other properties in the Town’s Commercial zoning district. To the contrary, the granting of this variance would set a precedent for permitting the development of similar storage facilities in the Town.

CONCLUSION

In connection with the Project, the Applicant respectfully requests the approval of the Board to develop a self-storage facility on the Property. First, the Applicant has satisfied the inquiries in numbers 1-4 of Attachment B. Second, as also set forth above, commercial zoning classifications generally permit this requested use as a matter of right. In addition to the technical merits of the Application and the law, the approval of this variance being requested will provide a much-needed service to the Town of Townsend and generate economic activity and development within the Town. Thank you for your consideration of this request, and we remain available to provide any additional information requested by the Board.

Respectfully Submitted,

/s/ Thomas P. Carney

Thomas P. Carney, Esquire